

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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SIERRA CLUB,

Plaintiff,

v.

Case No. 3:09-cv-00751

LISA JACKSON, in her  
official capacity as Administrator,  
United States Environmental  
Protection Agency,

Defendant.

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**WISCONSIN PUBLIC SERVICE CORPORATION'S ANSWER**

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For its Answer, intervenor-defendant Wisconsin Public Service Corporation ("WPSC") states and alleges:

1. Paragraph 1 states a legal conclusion or description for which no response is required. To the extent a response is required, WPSC admits the allegations of Paragraph 1.
2. Admits that the Plaintiff's Complaint states that Plaintiff is seeking an order requiring the Defendant, the Administrator of the Environmental Protection Agency, to grant or deny its petition and admits that WPSC owns the J.P. Pulliam Generating Station in Green Bay, Wisconsin. To the extent Paragraph 2 states a legal conclusion, no response is required, and to the extent a response is required, denies. Denies all other allegations contained in Paragraph 2.
3. Lacks information or knowledge sufficient to form a belief as to the truth of Paragraph 3 and therefore denies same.

4. Lacks information or knowledge sufficient to form a belief as to the truth of the first two sentences in Paragraph 4 and therefore denies same. Denies all other allegations contained in Paragraph 4.

5. Lacks information or knowledge sufficient to form a belief as to the truth of Paragraph 5 and therefore denies same.

6. Denies the allegations contained in the first and third sentences in Paragraph 6. Lacks information or knowledge sufficient to form a belief as to the truth of the second sentence in Paragraph 6 and therefore denies same.

7. Admits the allegations contained in the first two sentences of Paragraph 7. To the extent the remainder of Paragraph 7 states a legal conclusion, no response is required, and to the extent a response is required, denies.

8. To the extent Paragraph 8 states a legal conclusion, no response is required, and to the extent a response is required, denies. Denies all other allegations contained in Paragraph 8.

9. To the extent Paragraph 9 states a legal conclusion, no response is required, and to the extent a response is required, denies. As to all other allegations of Paragraph 9, lacks information or knowledge sufficient to form a belief as to the truth of such allegations and therefore denies same.

10. Admits that Sierra Club submitted a notice of intent to sue. To the extent Paragraph 10 states a legal conclusion, no response is required, and to the extent a response is required, denies. Denies all other allegations contained in Paragraph 10.

11. Lacks information or knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 11 and therefore denies same.

12. Lacks information or knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 12 and therefore denies same.

13. Admits the allegations of Paragraph 13.

14. Admits the allegations of Paragraph 14.

15. To the extent Paragraph 15 states a legal conclusion, no response is required, and to the extent a response is required, denies.

16. Admits the allegations of Paragraph 16.

17. Admits that on or about June 25, 2009, Sierra Club petitioned the Administrator to have the U.S. EPA object to Pulliam's Title V permit. To the extent the remainder of Paragraph 17 states a legal conclusion, no response is required, and to the extent a response is required, denies.

18. Admits that Plaintiff provided a copy of its petition to WPSC. Lacks information or knowledge sufficient to form a belief as to the truth of the remainder of Paragraph 18 and therefore denies same.

19. To the extent Paragraph 19 states a legal conclusion, no response is required, and to the extent a response is required, denies.

20. WPSC repeats and incorporates by reference all responses in the above paragraphs and all responses in all paragraphs in this Answer.

21. To the extent Paragraph 21 states a legal conclusion, no response is required, and to the extent a response is required, denies.

22. To the extent Paragraph 22 states a legal conclusion, no response is required, and to the extent a response is required, denies. Lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations of Paragraph 22 and therefore denies same.

23. To the extent Paragraph 23 states a legal conclusion, no response is required, and to the extent a response is required, denies.

24. To WPSC's knowledge, admits the allegations contained in the first sentence of Paragraph 24. Denies the remainder of Paragraph 24.

25. To the extent Paragraph 25 states a legal conclusion, no response is required, and to the extent a response is required, denies. Denies all other allegations in Paragraph 25.

### **DEFENSES**

For its defenses, WPSC states as follows:

1. All agency action at issue in the Plaintiff's complaint was lawful.
2. Plaintiff failed to provide adequate notice of its claims and therefore this action is barred.
3. Plaintiff fails to state a claim upon which relief can be granted.
4. This Court lacks jurisdiction to hear Plaintiff's claims.
5. Plaintiff is not entitled to an award of costs.
6. Plaintiff lacks standing to bring this action.

**WHEREFORE** intervenor-defendant WPSC prays the Court for relief as follows:

- a. Judgment dismissing Plaintiff's action on the merits and with prejudice.
- b. An award of costs and fees, including attorney fees.
- c. Such other relief as the Court deems just or equitable.

Dated February 2, 2010,

FOLEY & LARDNER LLP

By: s/Tony H. McGrath  
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